

Who is subject to Phase I the NPDES Storm Water Program? Who needs a permit?

The term “Storm Water Discharges Associated with Industrial Activity”, defined in federal regulations 40 CFR 122.26(b)(14)(I)-(xi), determined which industrial facilities are potentially subject to Phase I of the storm water program. If you are subject to the program you need to apply for a permit. The definition uses either SIC (Standard Industrial Classification) codes or narrative descriptions to characterize the activities. You are responsible for identifying your facility’s SIC code. The definition’s 11 categories (I) - (xi) are listed below. You should review these 11 categories and decide if your type of facility is described by any of them (either by SIC code or by narrative descriptions). Please note that categories iii, viii, and xi have special conditions, or exceptions (described below) which may make a facility NOT subject to the program, and therefore not required to apply, even though the facility’s activity matches one of the SIC codes.

category (I)

Facilities subject to storm water effluent limitations guideline, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi)). These types of facilities include the following :

40 CFR Subchapter N
405 Dairy products processing
406 Grain mills
407 Canned & preserved fruits & veg. processing *
408 Canned & preserved seafood processing
409 Beet, crystalline & liquid cane sugar refining
410 Textile mills
411 Cement manufacturing
412 Feedlots (use CAFO General Permit)
414 Organic Chemicals plastics and synthetic fibers
415 Inorganic chemical manufacturing *
417 Soap and detergent manufacturing
418 Fertilizer manufacturing
419 Petroleum refining
420 Iron and steel manufacturing
421 Nonferrous metal manufacturing
422 Phosphate manufacturing *
423 Steam electric power
424 Ferroalloy manufacturing *
425 Leather tanning and finishing
426 Glass manufacturing *
427 Asbestos manufacturing
428 Rubber manufacturing
429 Timber products processing
430 Pulp, paper, and paperboard *
431 Builder’s paper and board mills
432 Meat products
433 Metal finishing
434 Coal Mining *
436 Mineral mining & processing *
439 Pharmaceutical manufacturing *
440 Ore mining & dressing *
443 Paving and roofing materials
446 Paint formulating
447 Ink formulating
455 Pesticide Chemicals *
458 Carbon Black manufacturing
461 Battery manufacturing
463 Plastics molding and forming
464 Metal molding and casting
465 Coil coating
466 Porcelain enameling
467 Aluminum forming
468 Copper forming *
469 Electrical & electronic component
471 Nonferrous metal forming & powders
* some facilities in group do not have limits or standards, see 40 CFR subchapter N to verify.

category (ii)

Facilities classified by the following SIC codes:

SIC Code
24 lumber and wood products (except 2434 wood kitchen cabinets, see (xi))
26 paper & allied products (except 265 paperboard containers, 267 converted paper, see (xi))
28 chemicals & allied products (except 283 drugs, see (xi))
29 petroleum & coal products
311 leather tanning & finishing
32 stone, clay & glass production (except 323 products of purchased glass, see (xi))
33 primary metal industry
3441 fabricated structural metal
373 ship and boat building and repair

category (iii) Mineral Industry

Facilities classified as SIC codes 10-14 including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990), and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim).

SIC Code
10 metal mining (metallic mineral/ores)
12 coal mining
13 oil and gas extraction
14 non-metallic minerals except fuels

Oil and gas operations that discharge contaminated storm water at any time between November 16, 1987 and October 1, 1992, and that are currently not authorized by an NPDES permit, must apply for a permit. Operators of oil and gas exploration, production, processing, or treatment operations or transmission facilities, that are not required to submit a permit application as of October 1, 1992 in accordance with 40 CFR 122.26(c)(1)(iii), but that after October 1, 1992 have a discharge of a reportable quantity of oil or a hazardous substance (in a storm water discharge) for which notification is required pursuant to either 40 CFR 110.6, 117.21, or 302.6, must apply for a permit.

category (iv) Hazardous Waste

Hazardous waste treatment, storage, or disposal facilities including those that are operating under interim status or a permit under Subtitle C of RCRA.

category (v) Landfills

Landfills, land application sites, and open dumps that receive or have received any industrial waste (waste that is received from any of the facilities described under categories (I) - (xi)) including those that are subject to regulations under Subtitle D of RCRA.

category (vi)

Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 (used motor vehicle parts) and 5093 (scrap and waste materials).

category (vii) Steam Electric Plants

Steam electric power generating facilities, including coal handling sites.

category (viii) Transportation

Transportation facilities classified by the SIC codes listed below which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under categories (I)-(vii) or (ix)-(xi) are associated with industrial activity, and need permit coverage.

SIC Code
40 railroad transportation
41 local and interurban passenger transit
42 trucking & warehousing (except 4221-25, see (xi))
43 US postal service
44 water transportation
45 transportation by air
5171 petroleum bulk stations and terminals

category (ix) Treatment Works

Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the Clean Water Act.

category (x) Construction

Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than 5 acres of total land area which are not part of a larger common plan of development or sale.

[The construction "operator" must apply for permit coverage under the General Storm Water Permit for Construction Activities. The "operator" is the party or parties that either individually or taken together meet the following two criteria: 1) they have operational control over the site specification; 2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance. For a typical commercial construction site, the owner and general contractor must both apply. For a typical residential development, the developer and all builders must apply. Each builder must apply even if they individually disturb less than 5 acres if the overall development is 5 or more acres. Only one Pollution Prevention Plan is required per site even though there may be multiple parties.]

category (xi) Light industry

Facilities classified by the following SIC codes:

SIC Code
20 food and kindred product
21 tobacco products
22 textile mill products
23 apparel and other textile product
2434 wood kitchen cabinets
25 furniture and fixtures
265 paperboard containers and boxes
267 miscellaneous converted paper products
27 printing and publishing
283 drugs
285 paints and allied products
30 rubber and miscellaneous plastic
31 leather and products (except 311)
323 products of purchased glass
34 fabricated metal products (except 3441)
35 industrial machinery and equipment
36 electronic and other electric equipment
37 transportation equipment (except 373)
38 instruments and related products
39 miscellaneous manufacturing
4221 farm product storage
4222 refrigerated storage
4225 general warehouse and storage

(and which are not otherwise included in categories (ii) - (x)) with storm water discharges from all areas (except access roads and rail lines) where material handling, equipment, or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate produce, finished product, by-product, or waste product.